

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS**

RICHARD AUSMUS,

Plaintiff,

v.

**VIPIN SHAH, FAIYAZ AHMED, and
KEVIN KINK,**

Defendants.

Case No. 18-cv-1497-NJR-MAB

MEMORANDUM AND ORDER

ROSENSTENGEL, Chief Judge:

This matter is before the Court on the Report and Recommendation of United States Magistrate Judge Mark A. Beatty (Doc. 57) regarding the motion to dismiss filed by Kevin Kink (Doc. 17) and the motion to stay discovery filed by Kevin Kink (Doc. 51). The Report and Recommendation was entered on July 12, 2019; it recommends granting the motion to dismiss and denying as moot the motion to stay discovery. Plaintiff Richard Ausmus has filed a response titled "Motion to Concede the Report and Recommendations of Magistrate Judge Mark A. Beatty" (Doc. 58). In the motion, Ausmus raises no objection, other than to mention that he never received a copy of the Court's threshold order at Doc. 6 (but he does not request a copy of this Order, nor does he indicate that that he's unable to access it at Lincoln Correctional Center). Overall, Ausmus concedes the Report and Recommendation.

Where neither timely nor specific objections to the Report and Recommendation are made, the Court should review the Report and Recommendation for clear error.

Johnson v. Zema Systems Corp., 170 F.3d 734, 739 (7th Cir. 1999). The Court may then “accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge.” 28 U.S.C. § 636(b)(1).

The undersigned has reviewed Judge Beatty’s Report and Recommendation and finds there is no clear error in his findings of fact or conclusions of law. Because Plaintiff has been transferred to Lincoln Correctional Center, and there is no suggestion or contention that he is likely to be transferred back to Lawrence Correctional Center, his official capacity claim against Kevin Kink (the warden of Lawrence Correctional Center) for the purpose of carrying out his request for injunctive relief is moot. Accordingly, the Report and Recommendation (Doc. 57) is **ADOPTED** in its entirety. The Court **GRANTS** the motion to dismiss filed by Kevin Kink (Doc. 17). In light of this ruling, the motion to stay discovery filed by Kevin Kink (Doc. 51) is **DENIED as moot**. Defendant Kevin Kink is **DISMISSED with prejudice**.

IT IS SO ORDERED.

DATED: August 8, 2019

A handwritten signature in black ink, reading "Nancy J. Rosenstengel", is positioned above a horizontal line. A faint circular seal is visible behind the signature.

NANCY J. ROSENSTENGEL
Chief U.S. District Judge